

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA
ex rel

1: CV 00-027

TAI T. LE # 99-0454

Full name & prison number
(if any) of Petitioner

NO. FILED
SCRANTON

v.
FRANCES M. HOLMES
INS DISTRICT DIRECTOR
Name of Respondent

FEB 15 2000
RECEIVED
SCRANTON
PER KMY
DEPUTY CLERK FEB 15 2000

(PERSONS IN FEDERAL CUSTODY) MARY E. D'ANDREA
Pet. Deputy Clerk

PETITION FOR WRIT OF HABEAS CORPUS

Instructions - READ CAREFULLY

1. In order for this petition to receive consideration by the District Court, it shall be in writing (legibly handwritten or typewritten), and the unsworn declaration signed by the petitioner. It shall set forth in concise form the answers to each applicable question. If necessary, petitioner may finish his answer to a particular question on the reverse side of the page or on an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

2. Any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioners should therefore exercise care to assure that all answers are true and correct.

3. When the petition is completed, the original and three copies shall be mailed to the Clerk, United States District Court, Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pa. 18501.

If you are unable to pay the \$5.00 filing fee for this action, you may petition the court to proceed in forma pauperis. Two blank petitions for this purpose are included in this packet. One copy should be filed with your complaint; the other copy is for your records.

1. Place of detention CARBON COUNTY CORRECTIONAL FACILITY, 331 BROAD ST. NESQ. Pa.
2. Name and location of court which imposed sentence Pennsylvania Department of Correctional Immigration Court, P.O. Box 598, Camp Hill, Pa. 17001-0598
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
- (a) Ordered by Immigration Judge Bruce M. Barrett removed to Vietnam.
- (b) Section 237 (a) (2) (A) (iii) of the Immigration and Nationality Act. (INA)
- (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
- (a) Final ordered of removal date was Oct. 22, 1998
- (b) _____
- (c) _____
5. Check whether a finding of guilty was made
- (a) after a plea of guilty _____
- (b) After a plea of not guilty X
- (c) after a plea of nolo contendere _____
6. If you were found guilty after a plea of not guilty, check whether that finding was made by
- (a) a jury _____
- (b) a judge without a jury Immigration Judge Bruce M. Barrett
7. Did you appeal from the judgment of conviction or the imposition of sentence? " No " Because I do not know how to file for a petition of appeal.

8. If you answered "yes" to (7), list

(a) the name of each court to which you appealed:

- i. _____
- ii. N/A
- iii. _____

(b) the result in each such court to which appealed:

- i. _____
- ii. N/A
- iii. _____

(c) the date of each such result:

- i. _____
- ii. N/A
- iii. _____

(d) if known, citations of any written opinions or orders entered pursuant to such results:

- i. INS review my file on August 23, 1999 at York County Prison.
- ii. release from custody was denied on November 24, 1999.
- iii. _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) I'm currently being detained by the INS at Carbon county prison awaiting deportation to Vietnam.

(2) On Oct. 22, 1998. Petition was giving an final order of removal from United States to Vietnam by Immigration Judge Bruce M. Barrett.

(b) (3) It's clearly that INS is unable to deport petition back to Vietnam due to the Government of Vietnam refused to take petition back.

(4) INS indefinite detention of petition violated his substantive due process right of the fifth (5th) Amend ment and the equal protection right of the fourteen (14th) Amendment.

(c)

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) Petitioner ordered of deportation will never occur therefore it is "Excessive" in violation of Substantive due process right of the fifth (5th) Amendment.

(b) That 3rd Cir. has condemned and several Federal Courts also that a detainee's inability to be deported while stateless facing indefinite detention in INS custody is cruel and unusual punishment.

(c) INS District Director Mr. Frances Holmes abuse of discretion, ordered petitioner continues detention with no intention of release or carefully reviewed cases.

WHEREFORE, Petitioner respectfully moves that his court grant him relief Writ of Habeas Corpus pursuant to 28 U.S.C. 2241 and order petitioner release from INS custody.

11. Have you filed previous petitions for habeas corpus motions under Section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction:

N/A

12. If you answered "yes" to (11), list with respect to each petition, motion or application

(a) the specific nature thereof:

i. _____

ii. N/A

iii. _____

(b) the name and location of the court in which each was filed.

i. _____

ii. N/A

iii. _____

(c) the disposition thereof.

i. _____

ii. N/A

iii. _____

(d) the date of each such disposition:

i. _____

ii. N/A

iii. _____

(e) If known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____ N/A _____

iii. _____

13. If you did not file a motion under Section 2255 of Title 28 United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

(a)

N/A

(b)

(c)

14. Has any ground set forth in (9) been previously presented to this or any other federal court by way of petition for habeas corpus, motion under Section 2255 of Title 28, United States Code, or any other petition, motion or application:

N/A

15. If you answered "yes" to (14), identify

(a) which grounds have been previously presented:

i. _____

ii. _____ N/A _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____ N/A _____

iii. _____

16. Were you represented by an attorney at any time during the course of

(a) your arraignment and plea: _____

(b) your trial, if any: _____ N/A _____

(c) your sentencing: _____

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

_____ N/A _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed:

_____ N/A _____

17. If you answered "yes" to one or more parts of (16), list

(a) the name and address of each attorney who represented you:

i. _____ N/A _____

11. N/A

111. _____

(b) the proceedings at which each such attorney represented you:

1. _____

11. N/A

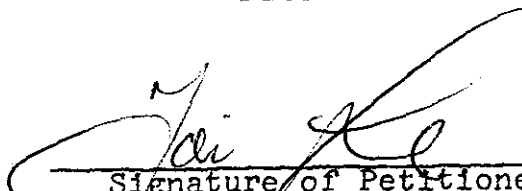
111 _____

18. If you are seeking leave to proceed in forma pauperis, have you completed the unsworn declaration setting forth the required information (see instructions, page 1 of this form).

Executed at Carbon County Correctional Facility, Nesquehanna, Pa.
Name of institution, city, state

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9th, 2000
Date


Signature of Petitioner